

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ROGER ALLEN RICKMAN,

Plaintiff,

vs.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security
Administration;

Defendant.

4:16CV3187

**FINDINGS AND
RECOMMENDATION**

This matter is before the Court pursuant to [28 U.S.C. § 1915\(e\)\(2\)](#). For the reasons explained below, the undersigned recommends dismissal of Plaintiff's lawsuit.

BACKGROUND

Plaintiff's complaint, along with its supplements, generally alleges that all Social Security benefits recipients, including Plaintiff himself, should receive at least \$1,500 a month in benefits payments. ([Filing No. 1 at CM/ECF pp. 5, 6; Filing No. 10](#)). Rickman is proceeding *in forma pauperis*. Pursuant to [28 U.S.C. § 1915\(e\)\(2\)](#), the undersigned completed an initial review on October 26, 2017. ([Filing No. 11](#)). The court found that Rickman could not assert the rights of others, and as to his own rights, Rickman's complaint failed to demonstrate that he had exhausted his right to administrative appeal and received a final decision from the Social Security Administration Act before filing this lawsuit. ([Filing No. 11 at CM/ECF p. 4](#)). Rickman's complaint failed to state a claim upon which relief may be granted. The court provided Rickman with a copy of the initial review

findings and afforded him 21 days to file an amended complaint which states a potentially viable claim. ([Filing No. 11 at CM/ECF p. 5](#)).

Rickman filed a response to the court's order on November 7, 2017. The Court construes this response as Plaintiff's amended complaint. (See [Filing No. 12](#)). Rickman's amended complaint contains many of the same or similar allegations, and it fails to address whether Plaintiff exhausted his administrative appeal rights. The amended complaint also fails to provide a basis for waiving the exhaustion requirements under [Title 42 U.S.C. § 405\(g\)](#), and it fails to state a claim upon which relief may be granted.

Accordingly,

IT IS RECOMMENDED to the Honorable Laurie Smith Camp, United States District Judge, pursuant to [28 U.S.C. § 636\(b\)](#), that Plaintiff Rickman's claims be dismissed without further notice.

The parties are notified that failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation.

Dated this 5th day of December, 2017.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge